

FIFTY-FIFTH DAY

Tuesday, April 28, 2015

The House of Representatives of the Twenty-Eighth Legislature of the State of Hawaii, Regular Session of 2015, convened at 11:36 o'clock a.m., with Vice Speaker Mizuno presiding.

The invocation was delivered by Kula Kaiapuni Hawai'i 'O Kahuku Academy, after which the Roll was called showing all Members present.

At 11:42 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:42 o'clock a.m.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Fifty-Fourth Day was deferred.

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 232 through 234) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 232, dated April 23, 2015, informing the House that the Hawaii State Teachers Association (HSTA) and the public employers have executed a supplemental agreement concerning Collective Bargaining Unit 5 (Teachers), and transmitting proposed amendments to S.B. No. 1080, SD 1, HD 1.

Gov. Msg. No. 233, dated April 24, 2015, informing the House that the United Public Workers (UPW) and the public employers have reached a memorandum of agreement concerning Collective Bargaining Unit 10 (Institutional, health and correctional workers) Employer-Union Trust Fund re-opener contributions. Additionally, the State has also reached a supplemental agreement concerning Employer-Union Trust Fund contributions for United Public Workers Bargaining Unit 1 (nonsupervisory employees in blue collar positions), and transmitting proposed amendments to S.B. No. 1081, SD 1, HD 1.

Gov. Msg. No. 234, dated April 24, 2015, informing the House that the Hawaii Firefighters Association and the public employers have executed a memorandum of agreement concerning Collective Bargaining Unit 11 (Firefighters) Employer-Union Trust Fund re-opener contributions, and transmitting proposed amendments to S.B. No. 1082, SD 1, HD 1.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 674 through 682) were received and announced by the Clerk:

Sen. Com. No. 674, transmitting H.C.R. No. 66, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING AN EMPHASIS ON COLLABORATION, OPENNESS, AND STRENGTHENING OF THE LONG TERM RELATIONSHIP BETWEEN THE STATE AND UNITED STATES NAVY IN ADDRESSING AND RESOLVING ISSUES RELATING TO THE LEAKAGE OF FUEL FROM THE NAVY'S RED HILL UNDERGROUND FUEL STORAGE FACILITY," which was adopted by the Senate on April 27, 2015.

Sen. Com. No. 675, transmitting H.C.R. No. 73, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT LAHAINA, MAUI FOR SEAWALL ENCROACHMENT PURPOSES AND AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT FOR THE RIGHT, PRIVILEGE, AND AUTHORITY TO USE, MAINTAIN, REPAIR, AND REPLACE AN EXISTING SEAWALL OVER, UNDER, AND ACROSS STATE-OWNED LAND

IN LAHAINA, MAUI," which was adopted by the Senate on April 27, 2015.

Sen. Com. No. 676, transmitting H.C.R. No. 78, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR AND DEPARTMENT OF TRANSPORTATION TO INCLUDE IN THE 2017-2018 SUPPLEMENTAL CAPITAL IMPROVEMENT PROGRAM REQUEST IMPROVEMENTS TO CRUISE SHIP PASSENGER TERMINALS AT NAWILIWILI HARBOR IN KAUAI, HONOLULU HARBOR IN OAHU, KAHULUI HARBOR IN MAUI, AND HILO HARBOR IN HAWAII," which was adopted by the Senate on April 27, 2015.

Sen. Com. No. 677, transmitting H.C.R. No. 141, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE COUNTIES TO IMPROVE PUBLIC BEACH ACCESS FOR PERSONS WITH DISABILITIES IN HAWAII," which was adopted by the Senate on April 27, 2015.

Sen. Com. No. 678, transmitting H.C.R. No. 178, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE GOVERNOR TO DEVELOP A MODERNIZED OAHU COMMUNITY CORRECTIONAL CENTER IN THE VICINITY OF THE HALAWA CORRECTIONAL FACILITY THROUGH A PUBLIC-PRIVATE PARTNERSHIP," which was adopted by the Senate on April 27, 2015.

Sen. Com. No. 679, transmitting H.C.R. No. 185, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF FOUR TERM, NON-EXCLUSIVE EASEMENTS COVERING PORTIONS OF STATE SUBMERGED LANDS AT STABLE ROAD BEACH, STABLE ROAD, SPRECKELSVILLE, WAILUKU, MAUI, FOR THE USE, MAINTENANCE, AND REPAIR OF FOUR EXISTING ROCK GROINS," which was adopted by the Senate on April 27, 2015.

Sen. Com. No. 680, dated April 27, 2015, informing the House that the Senate has on April 24, 2015, reconsidered its action taken on April 16, 2015, in disagreeing to the amendments proposed by the House to the following Senate Bills and have moved to agree to the amendments, and that said bills have this day passed Final Reading:

S.B. No. 143, SD 1, HD 1
S.B. No. 148, SD 1, HD 1
S.B. No. 1208, SD 1, HD 1

Sen. Com. No. 681, dated April 27, 2015, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the Senate to the following House Bill:

H.B. No. 268, Baker, Chair; Keith-Agaran, Co-Chair;
HD 2, SD 1 Slom

Sen. Com. No. 682, dated April 27, 2015, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the House to the following Senate Bill:

S.B. No. 284, Kahele, Chair; L. Thielen/Tokuda, Co-Chairs;
SD 2, HD 2 English, Slom

DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 69 and 87) were received by the Clerk and were placed on file:

Dept. Com. No. 69, from the Public Utilities Commission, dated February 10, 2015, transmitting its Annual Report for Fiscal Year 2014, pursuant to Section 269-5, HRS.

Dept. Com. No. 87, from the Hawaii Access to Justice Commission, dated March 6, 2015, transmitting the 2014 Annual Report of the Hawaii Access to Justice Commission, pursuant to Rule 21(j)(1) of the Rules of the Supreme Court of the State of Hawaii.

INTRODUCTIONS

The following introduction was made to the Members of the House:

Representative Pouha introduced Kula Kaiapuni Hawai'i 'O Kahuku Academy students: Aloha Espinosa, Kaluhia Blake, Aokea West, Kalani Sa'au, Pouli Magalei, Kāhealani Morgan, Ke'alohe Graycochea, Moewa'a Graycochea, Kawaiola Enos, Manulani Enos, Lehua Enos, Ka'ulawena Perez-Wasson, Kauakea Blake, Uakea Silva, Kohala Sprout, Ikaika Morgan, Lei-Roselani Mckee, Ma'ena Keawe, Ku'umauliola Kawelo, Kekai Naka'ahiki-Bourgeois and Taua'i Magalei; and *kumu*: Ka'umealani Walk, Lila Lelepali and Maile Johnson.

At 11:45 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:54 o'clock a.m.

ORDER OF THE DAY

SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Tupola and carried, the rules were suspended for the purpose of considering certain House Bills for Final Reading by consent calendar. (Representative Takayama was excused.)

UNFINISHED BUSINESS

Representative Saiki moved to agree to the amendments made by the Senate to the following House Bills, seconded by Representative Evans and carried: (Representative Takayama was excused.)

H.B. No. 354, HD 2, (SD 1)
H.B. No. 525, HD 2, (SD 2)

H.B. No. 354, HD 2, SD 1:

On motion by Representative Saiki, seconded by Representative Evans and carried, H.B. No. 354, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO NURSES," passed Final Reading by a vote of 51 ayes.

H.B. No. 525, HD 2, SD 2:

Representative Saiki moved that H.B. No. 525, HD 2, SD 2 pass Final Reading, seconded by Representative Evans.

Representative Say rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, with strong reservations. Thank you."

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, in opposition. Mr. Speaker, we've got to get our butts off the beach, we've got to get these beaches cleaned up, we've got to make sure that this is a pristine park, because our environment is our economy and our economy is our environment. I'm not sure that this is the way to do it, Mr. Speaker, because if it's about litter we need to find the litterers, and I'm not sure that this really does it. It finds anybody who vapes, who smokes and who is in the process of doing things in that otherwise if you know where we've prohibited smoking in the past, it's 20 feet outside of any doorway.

"Mr. Speaker, the average size of a state park must be in the acres, must be in the hundreds if not thousands of square feet. So if it's not in keeping with the consistency of 20 feet from any person or doorway, the state park it must be about littering.

"Mr. Speaker, the second problem and difficulty with this is that, how are you going to enforce this? Our police, our DOBOR people are stretched so thin, to enforce is going to be almost an impossibility. So, Mr. Speaker, I see the intent, we've got to stop kids from smoking, we want to cut down adults from smoking, we've got to discourage it, but I'm not sure this geographical parks is the next best way to go. For those reasons, Mr. Speaker, reservations and no, as I've just stated. Thank you. Meaning no, a no vote."

Representative Jordan rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. With reservations, Mr. Speaker. The Governor just recently signed a measure regarding electronic smoking devices that will now fall in the lines wherever smoking is prohibited now, electronic smoking devices will be prohibited to smoke in public places.

"This measure, Mr. Speaker, now moves all our state parks, you cannot smoke in there. Although we will be providing an area at DLNR's discretion for smoking areas, my challenge with this, as the previous Representative had said, is the enforcement mechanism of this. We all understand in this Body that DOCARE, or the enforcement division for the Department of Land and Natural Resources, is always shorthanded, never has enough money, and we don't have enough enforcement capabilities, with their duties going from the tip of the mountains all the way to three miles out in the ocean. And now to task, ask them to put out a cigarette or smoking device or to be chewing on some tobacco.

"Although I do support this, I do support people living healthier lifestyles, but at some point in time when do we as citizens start taking our own responsibility and respecting other peoples' space? If we want to smoke, unfortunately we may have to do that in the privacy of our homes. So there I stand with my reservations on this particular measure. Hopefully, we can provide monetary or manpower for DOCARE to handle this in the near future for us, but at this point in time I'll stand with reservations, Mr. Speaker, thank you."

Representative Oshiro rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative San Buenaventura rose to speak in opposition to the measure, stating:

"In opposition. I do not smoke, I do not vape, my family does not smoke, we do not vape. However, we respect other peoples' right to do that with their own bodies. I agree with the Representative from Hawaii Kai that when their freedoms infringe upon mine, such as in enclosed spaces where I have no choice but to smell or breathe their air or their vices, then I agree, we should stop it. But we should allow people to have whatever little vices that they have that do not infringe on our own. And as such, I stand in opposition."

Representative Kong rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. With strong reservations. Being a cigar smoking fisherman, I may have a little bit of problems with this, but we'll see how it turns out. Thank you, Mr. Speaker."

Representative Tupola rose to speak in support of the measure with reservations, stating:

"With reservations, Mr. Speaker. On the prior versions and votes I've always gone reservations for a lot of the same reasons that the people on the Floor have said, and so I still am wondering if this is the end all to what the problem is we're trying to curb. So, thank you."

Representative Creagan rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I'm very conflicted on this bill, but I'm voting in opposition because I think to conflate cigarettes with e-cigarettes which is just nicotine vapor, nicotine, it's not carcinogenic, and at the same time you're allowing barbeques, and even the cancer researchers said that the smoke from barbeques is carcinogenic. The exhaust from cars is carcinogenic. If you want to be consistent, ban cars from state parks. Ban the buses, the diesel buses which for sure have carcinogenic emissions. But to conflate cigarettes with e-cigarettes when e-cigarettes are a way for people to cut down on their smoking I think is egregious, so I'm voting in opposition. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 525, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Final Reading by a vote of 47 ayes to 4 noes, with Representatives Jordan, Kong, Oshiro, Say and Tupola voting aye with reservations, and with Representatives Creagan, McDermott, San Buenaventura and Ward voting no.

At 12:02 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 354, HD 2, SD 1
H.B. No. 525, HD 2, SD 2

FINAL READING

Representative Saiki moved to agree to the amendments made by the Senate to the following House Bills, seconded by Representative Evans and carried:

H.B. No. 268, HD 2, (SD 1)
H.B. No. 1007, HD 1, (SD 2)

H.B. No. 268, HD 2, SD 1:

On motion by Representative Saiki, seconded by Representative Evans and carried, H.B. No. 268, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTRY," passed Final Reading by a vote of 51 ayes.

H.B. No. 1007, HD 1, SD 2:

Representative Saiki moved that H.B. No. 1007, HD 1, SD 2 pass Final Reading, seconded by Representative Evans.

Representative Oshiro rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and H.B. No. 1007, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER LICENSING," passed Final Reading by a vote of 51 ayes, with Representative Oshiro voting aye with reservations.

At 12:04 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 268, HD 2, SD 1
H.B. No. 1007, HD 1, SD 2

SUSPENSION OF RULES

On motion by Representative Saiki, seconded by Representative Evans and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments made by the Senate to certain House Bills. (Representative Oshiro excused.)

RECONSIDERATION OF ACTION TAKEN

Representative Saiki moved that the House reconsider its action previously taken in disagreeing to the amendments made by the Senate, and give notice of intent to agree to such amendments for the following House Bills, seconded by Representative Evans and carried: (Representative Oshiro was excused.)

H.B. No. 467, HD 1, (SD 1)
H.B. No. 589, HD 1, (SD 1)

ANNOUNCEMENTS

Representative Ward: "Mr. Speaker, all of us know that an earthquake of almost 8 or 7.9 hit Nepal, the great people in the Himalayas. Mr. Speaker, at the appropriate time I would ask for a moment of silence remembering that they have a three day mourning period, and we would be joining as our moment of silence would indicate."

At this time, the Members of the House of Representatives stood for a moment of silence in honor of the victims of the April 25, 2015 Nepal earthquake.

ADJOURNMENT

At 12:07 o'clock p.m., on motion by Representative Evans, seconded by Representative Tupola and carried, the House of Representatives adjourned until 11:30 o'clock a.m. tomorrow, Wednesday, April 29, 2015. (Representative Oshiro was excused.)

HOUSE COMMUNICATIONS

House Communication dated April 28, 2015, from Brian L. Takeshita, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered its action taken in disagreeing to the amendments made by the Senate on April 14, 2015, and gives its notice of intent to agree to the following House Bill:

H.B. No. 589, HD 1, SD 1

House Communication dated April 28, 2015, from Brian L. Takeshita, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered its action taken in disagreeing to the amendments made by the Senate on April 16, 2015, and gives its notice of intent to agree to the following House Bill:

H.B. No. 467, HD 1, SD 1

House Communication dated April 28, 2015, from Brian L. Takeshita, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has this day agreed to the amendments made by the Senate and passed the following House Bills on Final Reading:

H.B. No. 268, HD 2, SD 1
H.B. No. 354, HD 2, SD 1
H.B. No. 525, HD 2, SD 2
H.B. No. 1007, HD 1, SD 2